

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

MARLENE G. MEYER,

Plaintiff,

-vs-

ARG ENTERPRISES, INC. aka STUART
ANDERSON'S CATTLE COMPANY
RESTAURANTS,

Defendant.

Case No. 3:05-cv-00239-TMB

DEPOSITION OF RICHARD BUTTON

Pages 1 - 44 inclusive

September 28, 2006, 10:00 a.m.

Anchorage, Alaska

Exhibit A
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1 **Q. I understand there are standards for making**
2 **sidewalks. We talked about settling. We talked about**
3 **freezing. I'm going to assume tree roots can push out**
4 **pieces of sidewalk?**
5 A. Yes, they can.
6 **Q. Is that a code violation when the piece of**
7 **sidewalk becomes unlevel with the adjoining piece?**
8 A. Yeah, I would -- I would say that it would be a
9 code violation.
10 **Q. Is there any enforcement of those violations?**
11 **Is that something, you call the Municipality of Anchorage**
12 **and they'll enforce the code?**
13 A. No. You could call them, and they probably
14 should -- I -- I guess I don't have an opinion on that,
15 because I haven't done it, so --
16 **Q. If you were the officer to say that this**
17 **sidewalk was a code violation, what provision would you**
18 **cite?**
19 A. I would go back to the sections that say that --
20 that the maximum difference in elevation that you're
21 allowed on any path of egress is a half-an-inch. And
22 that happens at doorways or thresholds. And that's the
23 exception that's made because, as a practical matter, you
24 need to have a threshold in a doorway.
25 **Q. Now, in your report you cite section 1008.1.6**

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1 **for thresholds. Where is the provision that says**
2 **sidewalks can't be out of level? Or that -- is there any**
3 **provision that says -- that says this, the egress has to**
4 **be continuous?**
5 A. There is a section. I guess the assumption is
6 that -- and it's -- it -- I would have to go back and see
7 if I could track down the section, but the assumption of
8 all codes is that the floors are level. That's why you
9 can walk across the lobby here and not end up with
10 changes in floor level, even though it might be
11 convenient, and have tripping hazards.
12 **Q. That's an assumption of the code, but it's not a**
13 **provision of the code.**
14 A. Well, it is -- they have accepted the flatness
15 at doorways. So they've given you -- they've allowed
16 that there be a half-inch exception to flat when you walk
17 through a door. I mean, otherwise you wouldn't be
18 allowed that, otherwise you would have to have a flat
19 level means of travel through doorways, which is
20 impractical.
21 **Q. I'm not arguing what's smart design or what's**
22 **good design.**
23 A. Sure.
24 **Q. But is there a provision that says we're going**
25 **to have flatness? Is there a specific provision?**

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1 A. I would say that, yes, there probably is. I
2 don't have access to it here today. But I can tell you
3 for sure that it is understood.
4 **Q. How about in this particular case at the Cattle**
5 **Company, the curb out to the parking lot, that appears to**
6 **be out of flat, that's an exception to the flatness of**
7 **where people walk?**
8 A. You're allowed to have rises at stairs and curbs
9 up to seven inches. So I'm -- I mean, so between your
10 street and the typical height for a curb is six inches,
11 but the code allows for stairways a maximum rise or
12 height of seven inches.
13 **Q. Is there a minimum rise or height?**
14 A. I think it's four. I would have to go back and
15 look. But, yes, they do have a maximum/minimum for the
16 same reason, they don't want -- there is a certain level
17 that people don't perceive well. And so you -- tripping
18 becomes a problem, too, so they define a minimum stair
19 riser height and a maximum.
20 **Q. When you say there's a point people don't**
21 **perceive well, what is the basis of that opinion? What**
22 **background --**
23 A. That's just general conversation with my
24 colleagues over the years.
25 **Q. Any colleagues with particular psychological**

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1 **training?**
2 A. No, just general conversation.
3 **Q. Engineering colleagues?**
4 A. And architectural colleagues.
5 **Q. Is there a minimum height for curbs? Is that**
6 **the same as stairs, or --**
7 A. You know, I don't know if there's a minimum
8 height. The Muni has standards for curbs. You can have
9 a rolled curb. You can have a curb for handicapped
10 access. And the -- I believe the -- I'd have to go take
11 a look at the typical detail, I think it probably rolls
12 down to about an inch or half-an-inch, something like
13 that. Those are just standard details that are put out
14 by the Muni.
15 And so the six inches works well. That's
16 usually the curb that we adopt and use in our projects.
17 Although, as I said, they have specific details for --
18 approved details for a handicapped access from a sidewalk
19 to a street.
20 **Q. I think we're just about done. Just a second**
21 **here.**
22 You would agree this sidewalk is not a landing
23 or a threshold; is that a fair statement?
24 A. Uh-huh.
25 **Q. That's a yes?**